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## Estonia

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## Introduction

1. This document is presented to replace the previous core document, which did not contain all the relevant information. It contains the information requested in the consolidated guidelines for the initial parts of the reports of States parties. As proposed in the guidelines, the information is presented in four parts: land and people; general political structure; general legal framework within which human rights are protected; and information and publicity.

## I. LAND AND PEOPLE

### A. The land

2. Estonia is located in northern Europe, on the eastern coast of the Baltic Sea. Estonia's territory is 45,227 $km^2$. About one tenth (4,133 $km^2$) of it is taken up by islands, and 47.6 per cent of the territory is forest and woodland. The country is covered with nearly 1,200 lakes (5 per cent of the Estonian territory).

3. As part of the East European Plain, Estonia is characterized by flat surface topography. Due to the influence of the Gulf Stream the climate is mild. The average temperature of the coldest month, February, is -3.5 to -7° C, while that of the warmest, July, is 16 to 18° C.

4. Estonia is divided into 15 counties, 207 rural municipalities and 47 towns. The largest city is the capital, Tallinn, which had 403,981 inhabitants at the beginning of 2000.

### B. The people

#### Population

5. The estimated population of Estonia at the beginning of 2000 was approximately 1,439,000. The population has fallen by 8 per cent since 1989. Men comprise 46.5 per cent and women 53.9 per cent of the population.

6. In the first half of the 1990s the average life expectancy in Estonia began to decline. Until 1994 it decreased by 4½ years, mainly on account of a decrease in the life expectancy of men. Since 1995 the tendency has been reversed. In 1998 the average life expectancy was 64.4 for men and 75.5 years for women. Estonian women have a considerably longer life expectancy than men.

7. The main causes of death in the period 1992-1999 were malignant neoplasms, injuries and poisonings, and diseases of the circulatory system. The death rate for men from these causes was higher than for women. Mortality, which had increased drastically in the mid-1990s, started to decline considerably in 1996. That trend primarily resulted from changes in the number of persons who died of trauma or poisoning as well as diseases of the circulatory system. At the same time, mortality due to malignant neoplasms has been relatively stable.

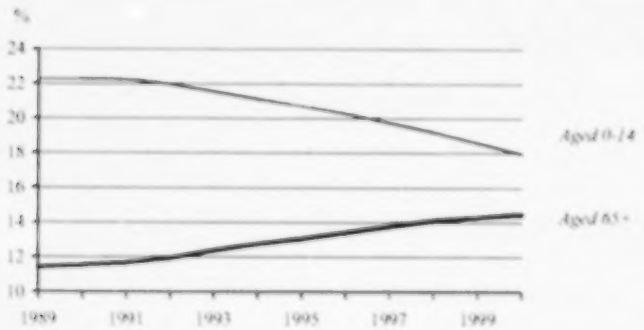
**Table 1. Life expectancy at birth, 1990, 1995-1999**

| Year | Males | Females |
|---|---|---|
| 1990 | 64.6 | 74.6 |
| 1995 | 61.7 | 74.3 |
| 1996 | 64.5 | 75.5 |
| 1997 | 64.7 | 76.0 |
| 1998 | 64.4 | 75.5 |
| 1999 | 65.4 | 76.1 |

Source: Statistical Office of Estonia.

8. Changes in the age structure of the population show a continuous trend towards ageing. In 1989, 23 per cent of the population was younger than 15 years and 15.6 per cent older than 60 years. In 1998, the proportion of those age groups was almost equal and at the beginning of 2000 there were fewer people younger than 15 years than over 60.

**Table 2. Percentage of young and old people in the population, 1989-1999 (at the beginning of the year)**




Source: Statistical Office of Estonia.

9. The natural increase rate in 1999 was -4.1. For the first time in 11 years, the number of births in 1999 was slightly higher than in the previous year. After a long period of decline, the fertility rate showed an increase in 1999: 1.24 children per woman, up from 1.21 in 1998. Infant mortality has decreased twice since 1989. The rate of infant mortality per 1,000 live births was 14.8 in 1989 and 9.5 in 1999.

10. The maternal mortality rate has decreased since 1995 (0.47 per 100,000 population), reaching 0.14 in 1998 and 0.13 in 1999.

11. The population density in Estonia is 32 inhabitants per $km^2$. More than two thirds of the population live in towns whereas the population of the capital, Tallinn, comprises more than 40 per cent of the whole urban population. Tallinn and the surrounding Harju county

account for more than one third of the whole Estonian population, and 45 per cent of the urban population lives in this area. The population density in towns is relatively high. The population density in rural areas is low, in some areas only 7 inhabitants per $km^2$.

**Table 3. Population density and sex distribution, 1 January 1999**

| Administrative unit | Total | Percentage of total population | Males | Females | Females per 1 000 males | Area ($km^2$) | Density |
|---|---|---|---|---|---|---|---|
| Total | 1 445.6 | 100.0 | 672.7 | 777.9 | 1 149 | 45 227 | 32 |
| Urban | 999.6 | 69.1 | 455.7 | 543.9 | 1 193 | 743 | 1 346 |
| Tallinn, capital city | 411.6 | 28.5 | 188.6 | 223.0 | 1 183 | 158 | 2 601 |
| Rural | 446.0 | 30.9 | 217.0 | 229.0 | 1 056 | 42 688 | 10 |

Source: Statistical Office of Estonia.

**National language**

12. According to article 6 of the Estonian Constitution the official language of Estonia is Estonian.

13. Everyone has the right to preserve his or her national identity (article 49 of the Constitution). The use of foreign languages, including the languages of national minorities, in State agencies and in court and pre-trial procedures will be provided by law (article 52 of the Constitution).

14. According to the National Minorities Cultural Autonomy Act persons belonging to a national minority have the right to preserve their ethnic identity, cultural traditions, language and religious beliefs. They have the right to distribute and exchange information in their mother tongue and use minority language in dealings within the limits established by the Language Act.

**Table 4. Ethnic composition of the population at the beginning of 2000**

| | |
|---|---|
| Total population | 1 439 197 |
| Estonians | 939 310 |
| Russians | 403 925 |
| Ukrainians | 36 467 |
| Belarusians | 21 125 |
| Finns | 12 762 |
| Jews | 2 275 |
| Tatars | 3 232 |
| Germans | 1 228 |
| Latvians | 2 638 |
| Poles | 2 290 |
| Lithuanians | 2 188 |
| Other nationalities | 11 757 |

Source: Statistical Office of Estonia.

**Religion**

15. The Estonian Constitution provides guarantees for the protection of the rights and freedoms associated with conscience, religion and thought. The Constitution stipulates that "Everyone has freedom of conscience, religion and thought. Everyone may freely belong to churches and religious societies. There is no State Church. Everyone has the freedom to exercise his or her religion, both alone and in community with others, in public or in private, unless this is detrimental to public order, health or morals" (art. 40). Article 41 of the Constitution stipulates that "Everyone has the right to remain faithful to his or her opinions and beliefs. No one shall be compelled to change them." Article 130 of the Constitution also adds that the right of conscience, religion and thought and the right to remain faithful to one's own opinions and beliefs must not be restricted even during a state of emergency or war, in the interests of national security or public order.

**Table 5. Main religions in Estonia**

| | |
|---|---|
| Lutheran | 170 000 |
| Russian Orthodox | 30 000 |
| Baptist | 6 100 |
| Old-Believers | 5 100 |
| Catholic | 3 500 |

Source: Ministry of Internal Affairs.

**Economy**

16. Estonia's transition from a planned to a market economy started in the early 1990s, with major reforms launched after the currency reform in 1992, when the kroon was introduced as Estonia's own currency. Successful reforms have brought along early macroeconomic stabilization and the creation of a favourable environment for economic development. Estonia's economic structure has become quite similar to that of industrialized countries.

17. In the process of reforms and economic restructuring (1992-1994), gross domestic product (at constant prices) diminished by nearly one quarter. After the initial stabilization, the Estonian economy has experienced average real GDP growth rates of around 6 per cent in the period 1995-1998, peaking at 10.6 per cent in 1997. GDP per capita on the purchasing power parity basis was US$ 7,003 in 1997, which was 23 per cent of the respective level in the United States. The growth has been based on the rapid rise of exports and a high level of investments. Economic growth stopped in 1999 as a result of the deterioration of the economic environment and GDP dropped by 1 per cent. In 2000 the economic situation has been improving. The GDP forecast for 2000 is 6 per cent.

18. The price consolidation process typical for transition economies has caused a high increase in consumer prices in the 1990s. The rise has slowed down from year to year, reaching 3.3 per cent in 1999. The rate of inflation shown as growth in consumer prices in

relation to the previous year was 11.2 per cent in 1997, dropping to 8.2 per cent in 1998. The year 1999 was characterized by a sudden slowdown of inflation, the average annual rise of consumer prices being 3.3 per cent.

19. Nominal wages and personal money income per member of household have been rising since the introduction of the kroon. The average nominal wage was 4,440 kroons a month in 1999. The rise of wages has exceeded the rise of consumer prices, resulting in a rise of real wages. Money income per household member has increased from 913 kroons (in 1994) to 2,000 kroons (in 1999).

**Table 6. Average disposable income of households, total in a year per household member, kroons**

| | 1997 | | 1998 | | 1999 | |
|---|---|---|---|---|---|---|
| | kroons | % | kroons | % | kroons | % |
| Income from labour | 11 888 | 61 | 14 468 | 64 | 14 568 | 61 |
| Income from self-employment | 2 174 | 11 | 1 406 | 6 | 1 331 | 5 |
| Property income | 46 | 0 | 90 | 0 | 151 | 1 |
| Transfers | 4 878 | 25 | 5 455 | 24 | 6 547 | 27 |
| Other income | 267 | 1 | 354 | 2 | 372 | 2 |
| Non-monetary income | 311 | 2 | 899 | 4 | 1 026 | 4 |
| Disposable income (net) | 19 564 | 100 | 22 673 | 100 | 23 995 | 100 |

Source: Statistical Office of Estonia.

**Table 7. Indicators of Estonian economy, 1994-1999**

| | 1994 | 1995 | 1996 | 1997 | 1998 | 1999* |
|---|---|---|---|---|---|---|
| GDP, billion kroons | 29.6 | 40.1 | 52.4 | 64.3 | 73.2 | 75.4 |
| Real GDP growth rate, % | -2.0 | 4.3 | 3.9 | 10.6 | 4.0 | -1.1 |
| Industrial output, % | -3.0 | 2.0 | 3.5 | 15.2 | 3.2 | -3.8 |
| Average gross wages, kroons | 1 734 | 2 375 | 2 985 | 3 573 | 4 125 | 4 440 |
| Exports, billion kroons | 15.6 | 19.0 | 21.2 | 31.6 | 37.5 | 35.8 |
| Imports, billion kroons | 20.1 | 27.4 | 34.7 | 48.9 | 55.2 | 50.5 |

Sources: Statistical Office of Estonia, Bank of Estonia.

* Preliminary data.

**Employment**

20. The period of economic transition in Estonia is characterized by a constant decline in employment. The biggest changes took place during the first economic reforms in 1993 and 1994 when total employment fell by 5.3 per cent and 7.5 per cent, respectively.

During 1989-1997 the number of employed persons fell by 193,800 persons or 23.1 per cent, coupled with a decrease in employment from 76.4 per cent to 61.5 per cent. This is mainly attributable to the negative birth rate of the Estonian population as well as to the changed economic environment. Employment has grown rapidly in the tertiary sector (trade, services), while there was a significant fall in the primary (agriculture, hunting, forestry, fishing) and secondary sectors (mining industry, processing industry, energy sector, construction, gas and water supply). Decreasing employment rates and rising unemployment have caused additional social problems. Some of the workers who were made redundant from primary and secondary sectors have found employment in service industries. As a rule, however, these persons are insufficiently qualified and are not prepared to relocate in search of work.

21. Unemployment in Estonia was a result of transformation from one economic system to another. In addition to a macroeconomic shock, unemployment increased as a result of failure by people to undergo retraining, low mobility of workers and psychological non-adaptability to the conditions of a market economy. According to the Estonian Labour Force Survey (ELFS), the unemployment rate in the second quarter was 10.1 per cent in 1998 and 12.1 per cent in 1999.

22. According to the ELFS the share of men among the unemployed in the age group 15-69 is notably larger than that of women. The share of men among the unemployed was 57 per cent in the second quarter of 1998. At the same time there were significantly more women among all unemployed job seekers (61 per cent) registered in State employment offices.

23. Data on unemployment by age groups shows that the main problem is the high level of unemployment among young people aged between 15 and 24 (14.5 per cent in 1998). In the coming years unemployment among the young is expected to rise. This is due to shortcomings in the structure of the system of vocational education.

24. Unemployment rates may vary by two to three times in the various regions. The regions that suffered most from industrial restructuring have been unable to alleviate their unemployment problems. Traditionally, unemployment has been highest in north-eastern and south-eastern Estonia.

**Table 8. Unemployment rate, second quarter, 1997-1999**

| Year | Males<br>% | Females<br>% | Males and Females<br>% |
|---|---|---|---|
| 1997 | 11.4 | 10.2 | 10.9 |
| 1998 | 10.8 | 9.2 | 10.1 |
| 1999 | 13.1 | 11.0 | 12.1 |

Source: Statistical Office of Estonia.

## II. GENERAL POLITICAL STRUCTURE

### A. History

25. Since the thirteenth century Estonia was ruled by several foreign powers. The independent Republic of Estonia became a reality only after the Russian empire disintegrated as a result of war and revolutions. On 28 November 1917, the Estonian Diet (the *Maapäev*) declared itself the supreme power in Estonia. In February 1918, the Estonian Salvation Committee was formed, which on 24 February 1918 proclaimed Estonia's independence. This date is considered as the date of establishment of the Republic of Estonia.

26. Shortly after, however, Estonia was occupied by Germany in the course of the First World War and it was not until November 1918, after Germany's defeat and the end of the German occupation, that the Government of Estonia could begin to function. In November 1918, Estonia was attacked by the military forces of Soviet Russia and Estonians had to fight for their independence in the War of Independence (1918-1920) and the war against the *Landeswehr* in 1919. After the victory of Estonian forces, the Tartu Peace Treaty was concluded with Soviet Russia on 2 February 1920, whereby Soviet Russia recognized the independence of Estonia "forever".

27. In April 1919, while the war was still being waged, the Constituent Assembly was formed, which adopted the first Estonian Constitution in 1920. This established Estonia's parliamentary system, whereby power was entrusted with the Government, composed of the State Elder and ministers, which was accountable to the parliament. The new State recognized all residents of Estonia as its citizens. By referendum in 1933, the Constitution was amended, considerably increasing the powers granted to the State Elder. With these amendments, Estonia was transformed into a presidential republic. However, in 1938 the third Estonian Constitution, with a more balanced division of powers, entered into force, and continued in force *de jure* throughout the Soviet occupation (1940-1991). In August 1939, the USSR and Nazi Germany concluded the so-called Molotov-Ribbentrop Pact, which contained secret protocols dividing Eastern Europe between the Soviet Union and German spheres of influence, whereby Estonia was included in the Soviet Union's sphere.

28. In September 1939, the Soviet Union presented Estonia with an ultimatum: to allow the Soviet Union to position its military forces on Estonian territory and to conclude a Treaty on Military Bases.

29. On 17 June 1940, the USSR occupied Estonia. A puppet Government was installed and non-democratic parliamentary elections were staged in June 1940. This unlawful parliament requested on 6 August 1940 that Estonia be incorporated into the USSR.

30. The Soviet occupation in Estonia was suspended temporarily in 1941 when Estonia was occupied by German forces. In the autumn of 1944, Estonia was again occupied by Soviet forces. Attempts by some Estonian politicians to restore the independence of Estonia upon the departure of German forces in 1944 failed.

31. Estonia was an independent republic, and a full member of the League of Nations and numerous other international organizations until 1940. The occupation and annexation of Estonia by the Soviet Union completely dismantled the State system and society of the Republic of Estonia. The *de jure* continuity of the Republic of Estonia was recognized by Western powers who refused to view the occupied Estonia as being legally part of the Soviet Union.

32. On 20 August 1991, during the attempted coup d'état in Moscow, the then Supreme Council made a decision to re-establish independence on the basis of historical continuity of statehood. This was followed by rapid recognition of Estonia's independence by many States of the world, including the Soviet Union.

33. A new democratic Constitution was approved at a national referendum on 28 June 1992 and it entered into force on 3 July 1992.

34. The first fully free and democratic national parliamentary and presidential elections after the regaining of independence were held on 20 September 1992.

### B. Information on the organization of the State

35. Estonia is a parliamentary republic, which was proclaimed on 24 February 1918 (and re-established its independence on the basis of legal continuity of statehood on 20 August 1991). Estonia is politically a unitary State.

36. The supreme power of State is exercised by the people through citizens with the right to vote:

- By electing the *Riigikogu*;
- Through a referendum.

37. An Estonian citizen who has attained 18 years of age has the right to vote (articles 56, 57 of the Constitution).

38. The activities of the *Riigikogu*, the President of the Republic, the Government of the Republic and the courts are organized on the principle of separation and balance of powers (article 4 of the Constitution).

**Parliament**

39. Legislative power is vested in the *Riigikogu* (article 59 of the Constitution), which is comprised of 101 members who are elected every four years (article 60 of the Constitution).

40. *Riigikogu* passes laws and resolutions, decides on the holding of a referendum and elects and appoints several high State officials, including the President of the Republic. The *Riigikogu* also has the right to present statements, declarations and appeals to the people of Estonia, other States and international organizations.

41. The most important task of the *Riigikogu* is legislation. The *Riigikogu* influences the governing of the State primarily by determining the revenue and expenses of the State (establishing taxes and adopting the budget). The *Riigikogu* also has the right to ratify and denounce international treaties and decide on the Government loans.

42. The Constitution sets out that the *Riigikogu* will form committees. The members of the *Riigikogu* have the right to form factions.

**President of the Republic**

43. The President of the Republic is the Head of State in Estonia (article 77 of the Constitution) and is elected by the *Riigikogu* every five years. The President represents the country in international relations, proclaims laws and signs instruments of ratification. The President initiates amendments to the Constitution and also has the right to issue decrees, pursuant to the Constitution. The President is the supreme commander of the national defence forces.

**The Government of the Republic**

44. Executive power in Estonia is vested in the Government of the Republic (article 86 of the Constitution). The Government carries out domestic and foreign policies of the State, directs and coordinates the activities of government agencies and administers the implementation of laws, resolutions of the *Riigikogu* and the legislation of the President (art. 87).

45. The Government of the Republic is appointed to office by the President when the candidate for Prime Minister is authorized by the *Riigikogu* to form a government (article 89 of the Constitution).

46. The State Chancellery of the Republic of Estonia is a government agency within the Government of the Republic. The State Chancellery is headed by the Secretary of State.

**Local government**

47. According to article 154 of the Constitution, all local issues are resolved and managed by local governments, which operate independently pursuant to law.

48. The units of local governments are rural municipalities and towns. Other units of local government may be formed on the bases of and pursuant to procedure provided by law. The representative body of a local government is the council that is elected in free elections for a term of three years. The elections are general, uniform and direct and voting is secret. Local governments have the right to form unions and joint agencies with other local governments. The administration of local governments and the supervision of their activities are provided by law.

**State Audit Office**

49. The State Audit Office is an independent State body responsible for economic control (article 132 of the Constitution). The State Audit Office audits the economic activities of State agencies, State enterprises and other State organizations; the use and preservation of State assets; the use and disposal of State assets which have been transferred under the control of local governments; the economic activities of enterprises in which the State holds more than one half of the votes by way of parts of shares, or whose loans or contractual obligations are guaranteed by the State.

50. The State Audit Office is directed by the Auditor General who is appointed to office by the *Riigikogu*, on the proposal of the President of the Republic.

**Legal Chancellor**

51. The Legal Chancellor is an independent official responsible for ensuring that legal acts adopted by the State legislator and the executive and by local governments are in conformity with the Constitution and the laws (article 139 of the Constitution). The Legal Chancellor analyses proposals made to him/her concerning the amendment of laws the passage of new laws and the activities of State agencies and, if necessary, presents a report to the *Riigikogu*.

52. The Legal Chancellor is appointed to office by the *Riigikogu*, on the proposal of the President of the Republic, for a term of seven years. The activities of the Legal Chancellor are provided in detail by the Legal Chancellor Act.

53. If the Legal Chancellor finds that a legislative act passed by the legislative or executive power or by a local government is in conflict with the Constitution or law, the Legal Chancellor will make a proposal to the respective body to bring it into conformity with the Constitution or law. If an act has not been brought to comply with the Constitution or law the Legal Chancellor will make a proposal to the Supreme Court to repeal the act (article 142 of the Constitution).

54. The Legal Chancellor also fulfils the functions of an ombudsman. Everyone has the right of recourse to the Legal Chancellor to supervise the activities of State agencies, including the guarantee of the constitutional rights and freedoms of persons (article 19 of the Legal Chancellor Act). The activities of the Legal Chancellor as an ombudsman are prescribed in more detail in paragraphs 72-80.

**Courts**

55. Justice is administered solely by the courts. The courts are independent and administer justice in accordance with the Constitution and the laws (article 146 of the Constitution). The Estonian court system is governed by chapter 13 of the Constitution as well as the Courts Act and the Status of Judges Act.

56. Estonia has a three-tier court system:

- County and city and administrative courts (courts of first instance);

- Circuit courts (courts of second instance, which review judgements of the first instance by way of appeal proceedings);

- The Supreme Court (the highest court, which reviews court judgements by way of cassation proceedings and cases involving constitutional disputes).

57. The creation of specialized courts with specific jurisdiction is provided by law. The formation of emergency courts is prohibited.

58. There are 18 county and city courts and 3 administrative courts in Estonia with a total of 177 judges, and 3 circuit courts with 44 judges.

**Review of constitutionality of legislation**

59. The court of constitutional review is the Supreme Court which comprises the Constitutional Review Chamber (Constitutional Review Proceedings Act, article 2). The Supreme Court will repeal either in full or in part any law or other legal act if it is in conflict with the provisions and spirit of the Constitution (art. 3).

60. Request for constitutional review of laws, other legal acts and international treaties may be submitted directly to the Supreme Court by the President, the Legal Chancellor and lower courts.

61. According to article 15 of the Constitution, everyone has the right, while his or her case is before the court, to petition that any relevant law, other legislation or procedure be declared unconstitutional. If the court after discussing the matter comes to the conclusion that the applicable law or other legislation is in conflict with the Constitution the court will declare the legislation unconsitutional and will not apply it, and the court will inform the Supreme Court and the Legal Chancellor about its decision, whereupon constitutional review proceedings are initiated in the Supreme Court (Constitutional Review Proceedings Act, article 5).

62. The Supreme Court has the power either to reject the appeal or to declare a law to be invalid wholly or in part. The power to nullify a legal act rests solely with the Supreme Court; other courts may declare an act unconstitutional and refuse to apply it.

**Supreme Court**

63. The Supreme Court has 17 justices. The Chief Justice of the Supreme Court is appointed by the *Riigikogu* on nomination by the President of the Republic. Justices of the Supreme Court are appointed by the *Riigikogu* on nomination by the Chief Justice. Justices are appointed for life.

64. The Supreme Court functions through separate chambers, each of which examine cases in panels of at least three justices. On the basis of the decision of the Supreme Court *en banc*, the justices are divided into three classical chambers - the Criminal Chamber, the Civil Chamber and

the Administrative Law Chamber. For purposes of examining constitutional review petitions a five-member Constitutional Review Chamber has been formed and sits as the occasion requires. Appeals may also be examined by a special ad hoc panel or by the Supreme Court *en banc*.

65. The highest body of the Supreme Court is the Supreme Court *en banc*. The Supreme Court *en banc* consists of all of the justices, and is competent to act when at least 11 members are present.

66. The granting of leave to appeal is decided by the Appeals Selection Committee, composed of three justices. The Judicial Disciplinary Commission and the Judicial Examination Commission also function through the Supreme Court.

67. The work of the Supreme Court and its staff is directed by the Chief Justice of the Supreme Court, who is the ex officio chairman of its plenary sessions and the Chairman of the Constitutional Review Chamber.

68. The administrative staff of the Supreme Court is directed by the Chancellor of the Supreme Court. The Supreme Court has an independent budget and is independent in its activities.

**Judges and lay judges**

69. Applicants for the position of judges must have completed the University of Tartu Law Programme, or be otherwise equally qualified. In addition, an applicant must be a person of high integrity, have professional experience of legal work and must be at least 25 years old (30 for the Supreme Court). On the basis of the Examination Commission's report, the Supreme Court decides whether to recommend the applicant for appointment to an office of judge by the President of the Republic.

70. Lay judges are elected by local government councils. Lay judges participate in the administration of justice in the courts of first instance pursuant to the rules of civil and criminal procedure. Lay judges have equal rights with judges in the administration of justice.

71. In county and city courts, judges sitting alone adjudicate civil matters in the name of the court. In the court sessions of an action, two lay judges are included in the panel of a court in addition to the judge, if this is requested by at least one party or if the judge considers lay judges necessary for the adjudication of the matter.

## III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

### A. Authorities which have jurisdiction affecting human rights

**Legal Chancellor**

72. According to the new Legal Chancellor Act adopted in 1999, the Legal Chancellor performs the functions of an ombudsman. Everyone has the right, either in person or through a

representative, to file a petition with the Legal Chancellor against the activities of officials of State agencies or local governments upon violation of the constitutional rights or freedoms of the person. The content of a petition sent to the Legal Chancellor by a prisoner, conscript, or person in a psychiatric hospital, special care home, general care home, children's home or youth home and the content of the response of the Legal Chancellor will not be examined and will be promptly forwarded to the addressee. No court judgement may have entered into force in the matter of the petition and the matter may not be concurrently subject to pre-trial complaint proceedings or judicial proceedings.

73. The Legal Chancellor will commence proceedings on the basis of a petition filed with him/her, or on his/her own initiative on the basis of information obtained beforehand, and will take measures which are necessary in the interests of a just and prompt settlement thereof, also using, if necessary, the right to address State agencies, local governments and their officials with memoranda and petitions.

74. The Legal Chancellor will notify a petitioner within one month of acts he/she has performed or deems necessary to perform in connection with the petition or complaint. If the Legal Chancellor commences the proceedings on his/her own initiative, he/she will notify the corresponding agency of the reasons for and purpose of the commencement of proceedings.

75. The Legal Chancellor has the right to demand information necessary for the performance of his/her duties. All the State agencies and local governments are required to release the necessary information to the Legal Chancellor within the term specified by him/her. The Legal Chancellor has the right to obtain information containing State secrets on the bases of and pursuant to the procedure prescribed by law.

76. The Legal Chancellor may demand that an agency provided for in the Act provide a written explanation concerning a petition. The corresponding agency will have to comply with the demand within the term specified by the Legal Chancellor.

77. In the course of proceedings, the Legal Chancellor may take oral testimonies from all persons concerning whom there is information that they know facts relevant to the matter and are capable of providing truthful testimonies concerning such facts. A person asked to provide oral testimony is required to appear following a summons from the Legal Chancellor.

78. In the course of proceedings, the Legal Chancellor will have unrestricted access to documents, materials and areas in the possession or jurisdiction of agencies provided for in the Act. The corresponding agencies are required to grant the Legal Chancellor unconditional and immediate access to all documents, materials and areas in their possession or jurisdiction.

79. The Legal Chancellor will notify a petitioner of deficiencies discovered in the course of examination of the petition, and of proposals made for the elimination thereof and of the results of the elimination of the deficiencies.

80. If the Legal Chancellor finds that an official has violated the Constitution or the law, he/she will notify either an investigative body or another competent body thereof in writing and, if necessary, will forward to the body all information and documents at his/her disposal.

**Courts**

81. The court system of the Republic of Estonia has been described in more detail under the section on general political structure.

82. All courts are competent to deal with questions of human rights. The Constitution states that in a court proceeding, the court will leave unapplied any law or other legislation that is in conflict with the Constitution. The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (article 152 of the Constitution).

83. A circuit court will review the decisions of county, city and administrative courts by way of appeal proceedings. At least three judges will participate in the hearing of matters by way of appeal proceedings in the sessions of Chambers of circuit courts. The chairman of a circuit court has the right to include county or city court judges of the same circuit who have not participated in the hearing of the matter in the first instance.

84. At least three judges will participate in the hearing of matters by way of cassation proceedings in the sessions of Chambers of the Supreme Court. The Supreme Court will review court decisions by way of cassation proceedings. In the cases, and pursuant to the procedure provided by law, the Supreme Court will hear petitions for review filed against court decisions and will correct court errors. The Supreme Court is also the court of constitutional review.

**Administrative court**

85. A person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. Administrative acts against which an action or protest may be filed with an administrative court are acts which regulate individual cases in public law relationships, issued by agencies, officials or other persons who perform administrative functions in public law. An association of persons, including an association which is not a legal person, may file an action with an administrative court in the interests of the members of the association or other persons if the corresponding right is granted to the association by law.

**Other State institutions dealing with human rights issues**

86. The other State institutions dealing with human rights issues are the various ministries. The most frequently involved ministries are the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Social Affairs, and the Minister responsible for population issues.

87. The Ministry of Justice carries out national legal policy within the scope of its principal tasks. The Ministry of Foreign Affairs deals with human rights in the international context.

88. The tasks of the Ministry of Social Affairs is to create conditions in the society for shaping an environment which promotes good health, employment and social protection and development of the quality of life of the people. Since 1996, there is an Equality Division in the Department of European Integration of the Ministry of Social Affairs. The main functions of the

Division include coordinating the integration of the principle of equality between men and women into the social-political development, ordering interdisciplinary research into the status of the sexes (research related to issues of health, labour, gender, family violence, equality of men and women in employment, etc.). The Equality Division also deals with drafting and implementing legislation on equality of the sexes and creating relevant structures and preparing action plans and programmes to guarantee equality between the sexes in accordance with the requirements of the United Nations, the Council of Europe and the European Union.

89. The office of a minister without portfolio responsible for population issues, including integration of minorities, was established in 1997. The responsibilities of the Minister include coordinating the elaboration and implementation of population policy; coordinating the policy of integrating non-Estonians into Estonian society; coordinating the process of granting citizenship by way of naturalization; coordinating population estimates and population counts; coordinating emigration and registration of foreigners as well as asylum policies.

### B. Remedies available to an individual who claims that his or her rights have been violated

**Right to equal treatment**

90. The Constitution of Estonia sets out that the rights, freedoms and duties of each and every person will be equal for Estonian citizens and for citizens of foreign States and stateless persons in Estonia (art. 9). According to the Constitution, everyone is equal before the law. No one will be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law (art. 12). Everyone has the right of appeal to a higher court against the judgement in his or her case pursuant to procedure provided by law (art. 24).

91. All persons have the right to the protection of the State and of the law (article 13 of the Constitution). The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, as well as of local governments (art. 14). Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional (art. 15).

92. The same principles have been listed in the Courts Act, which also stipulates that foreign citizens and stateless persons on the territory of Estonia have equal right with Estonian citizens to judicial protection, unless otherwise provided for in international treaties entered into by the Republic of Estonia.

93. Equal rights on the basis of nationality, race, colour, sex, language, origin and on other grounds to have recourse to the courts are provided, in addition to the Constitution and the Courts Act, in the Administrative Court Procedure Code, the Code of Civil Procedure, the Criminal Procedure Code, the Criminal Code, and other laws.

**Systems of compensation and rehabilitation for victims**

94. According to article 25 of the Constitution everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.

95. The protection of private life is regulated by the General Principles of the Civil Code Act which stipulates that everyone has the right to demand termination of a violation of the inviolability of his/her private life and to demand compensation for moral and proprietary damage caused thereby (sect. 24). Also, a person whose interests are damaged by use of his/her name or publicly used pseudonym may demand compensation of damage (sect. 25).

96. According to the Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty, compensation for damage is due to the person:

- Who was under arrest with the permission of the court and in whose matter the ruling to initiate criminal proceedings has been annulled, the proceedings have been terminated in the stage of preliminary investigation or investigation or at an organizing meeting of the court, or with respect to whom a decision to acquit has been made;

- Who had been detained as suspected of committing a crime and was released in connection with the dropping of charges;

- Who was serving a sentence of imprisonment and in whose case the decision to convict has been annulled and the proceedings in a criminal matter terminated or a decision to acquit has been made;

- Who served a sentence of imprisonment longer than the term of sentence originally imposed on him/her;

- Who had been placed in a psychiatric hospital without ground by the court in connection with the committing of an act with characteristics of an offence and in whose case the court ruling has been annulled;

- Who served an administrative arrest and the decision of arrest has been annulled;

- Who had been deprived of liberty without ground or without disciplinary, administrative or criminal proceedings, on the decision of an official authorized to warrant deprivation of liberty, if such a proceeding was compulsory (sect. 1).

97. The Ministry of Social Affairs has submitted to the Government a national criminal prevention subprogramme, "Creating a system for assisting victims of crime". Victims of crime include people who have become victims of negligent or bad treatment or physical, mental or sexual violence, i.e. people who have been caused suffering or damage by another person, group of persons or organization, regardless of whether the person causing the damage has been revealed or whether criminal proceedings have been brought against that person. The aim of the subprogramme is to create an organized system to assist victims of crime.

98. In Estonia, there are currently assistance services to help victims of crime: there is the *Ohvriabi* Society for Supporting Victims of Crime, and there are shelters. The Social Rehabilitation Centre and the Society for Supporting Victims of Crime provides counselling to victims, represents them in court, provides financial support, and organizes crisis assistance.

99. The central law with regard to the subprogramme is the Act for the Payment of National Compensation to Victims of Crime. The aim of the law is to alleviate the financial situation of victims of severe violent crimes by way of payment of compensation by the State. State aid is given to the victims also within the social welfare and social insurance framework, but these systems do not cover all victims in need of assistance or the whole amount of the damage arising as a result of the crime. The system of payment of compensation described in the law is an important supplement to the assistance provided to victims of crime as one target group within social law. Compensation is paid only to those victims of crime who do not receive compensation from other sources for the damage caused through crime.

100. Estonian citizens and foreigners residing in Estonia on the basis of a temporary or permanent residence permit have the right to compensation for damage as a result of an act of violent crime. In the payment of compensation the aim is not to compensate fully for the damage caused to the victim but to support his/her financial position.

101. According to the law, the amount of compensation payable by the State is 50 per cent of the amount of damage which is the basis for calculating the compensation. In calculating the damage, the draft law proceeds from the individual situation of every victim or his/her dependants, i.e. mainly the victim's income before the violent act of crime was committed.

### C. Protection of human rights in the legal system of Estonia

102. Chapter 2 of the Estonian Constitution contains a catalogue of fundamental rights and freedoms applicable in the Republic of Estonia. The chapter comprises 48 articles setting out the framework for the protection of civil, political, economic, social and cultural rights.

103. According to article 11 of the Constitution, rights and freedoms may be restricted only in accordance with the Constitution, and such restrictions must be necessary in a democratic society and may not distort the nature of the rights and freedoms restricted. Several articles in chapter 2 of the Constitution stipulate that the rights and freedoms guaranteed therein may be restricted only in the cases and pursuant to the procedure provided by law: article 20, paragraph 2 (inviolability of person), article 21, paragraph 1 (right of a person suspected of committing a crime to notify those closest to him or her of the deprivation of liberty), article 26 (inviolability of private or family life), article 32, paragraphs 1 and 2 (inviolability of property), article 33 (inviolability of dwelling, real or personal property or place of employment), article 34 (freedom of movement), article 35 (right to leave Estonia), article 43 (confidentiality of correspondence), article 44 (obtaining information from public institutions), article 45 (freedom of speech), article 47 (right of assembly), article 48 (right of association). Several other articles of the Constitution also state that on the basis of law exceptions can be made to the exercise of fundamental rights and freedoms.

104. According to article 130 of the Constitution, during a state of emergency or a state of war, the rights and freedoms of a person may be restricted and duties may be placed upon him or her in the interests of national security and public order, under conditions and pursuant to procedure prescribed by law. The basic rights and freedoms provided by the Constitution shall not be restricted (the right to citizenship by birth, the equality of persons, the right to life, etc.).

### D. Status of international law in the domestic legal order

105. According to article 3 of the Estonian Constitution, generally recognized principles and rules of international law are an inseparable part of the Estonian legal system. If laws or other legislation of Estonia are in conflict with international treaties ratified by the *Riigikogu* (including international human rights conventions), the provisions of the international treaty will apply (art. 123). Estonia is a State party to the most important international instruments.

106. In accordance with the Foreign Relations Act, the Government of the Republic is responsible for the fulfilment of international treaties. If an Estonian legal act contradicts an international treaty, the Government either submits a bill to the *Riigikogu* to amend the act, or the Government amends other legal acts within its competence to comply with the treaty.

107. Section 9 of the Code of Civil Procedure establishes that the courts must hand down decisions based on norms of international law ratified by the Republic of Estonia and Estonian law. If a treaty or a convention to which Estonia is a party provides rules of procedure which differ from the rules established by laws regulating civil court procedure in the Republic of Estonia, the rules of procedure established by the treaty or convention will be applied.

108. Based on the above, and on the provisions of the Estonian Constitution which state that universally recognized principles and norms of international law are an inseparable part of the Estonian legal system, the provisions of international treaties may be referred to directly.

## IV. INFORMATION AND PUBLICITY

109. On the order of the Government of the Republic, writing of reports is divided between different ministries. The Ministry of Social Affairs, the Ministry of Justice and the Ministry of Foreign Affairs are mainly responsible for writing the reports. In order to gather information, the ministries cooperate closely with other State agencies and bodies. There have been meetings between government officials from different ministries about the reporting system. There have also been training sessions on writing the reports. After a report is completed it is also made public on the Internet.

**Availability in local languages**

110. Laws for ratifying and denouncing international treaties and international treaties themselves are published in Part II of the *Riigi Teataja* (the State Gazette), which is an official publication of the Republic of Estonia.

111. Distribution of the *Riigi Teataja* is organized by the publisher on the basis of subscriptions and by sale of single issues through the establishments for distributing media publications. The subscription price and the price of single issues of the *Riigi Teataja* are established by the Secretary of State, taking into account the expenses incurred for the publication and distribution.

112. To facilitate use of the electronic database of the *Riigi Teataja* providing access to published texts and user information, the relevant address of the database is published in the *Riigi Teataja*. In order to guarantee availability of the *Riigi Teataja*, rural municipalities and city governments, the Estonian National Library and public libraries are supplied with the *Riigi Teataja* free of charge. The relevant costs are covered from the State budget. Everyone has the right to use, free of charge, the issues of the *Riigi Teataja* available in the Estonian National Library and public libraries, rural municipalities and city governments, and to use the electronic database of the *Riigi Teataja* available through computer network.

113. All texts are also available via different legal databases on the Internet. The texts are also available in Russian and English.

**Publicity**

114. In 1998, on the fiftieth anniversary of the Universal Declaration of Human Rights, on the initiative of the Ministry of Foreign Affairs the Ministry of Education issued a pamphlet with text of the Universal Declaration in Estonian, English and Russian. The publication was distributed to final-year secondary school students. The publication was prepared by the Ministry of Foreign Affairs and its publication was supported financially by the representation of the United Nations Development Programme in Estonia.

115. The National Library fulfils the function of the parliamentary library whose task it is to provide information services to the parliament, government and other constitutional institutions. For this purpose legal, economic and political information is gathered and databases are prepared. Nine international organizations have granted the library the status of a depository collection. In 1995, the Council of Europe Information and Documentation Centre was opened in the building of the National Library, followed in 1998 by the opening of the European Union Information Centre.

116. Several non-governmental organizations are also involved in distributing information and informing the public. The most important of them are dealt with below.

**Non-governmental organizations**

117. The Legal Information Centre for Human Rights (LICHR) was created as a public non-profit organization in 1994. Intimately involved in the setting up and consolidation of the LICHR were the Danish NGOs Danish Centre for Human Rights, Minority Rights Group-Denmark and Information Centre on Eastern Europe of the University of Copenhagen, some public organizations of Estonia were also involved: the Presidential Round Table of the National Minorities and the Representative Assembly of Non-Citizens of Estonia. Material assistance was provided by the Tallinn city government.

118. The LICHR, which launched its activities at the beginning of January 1995, was founded to promote constructive dialogue and to enhance awareness about human rights in Estonian society. The basic activities of the LICHR are legal advice, provided free of charge, and the collection, analysis and dissemination of information regarding human rights. The LICHR operates in contact and cooperation with the Government and parliament of Estonia, the political parties, NGOs, educational and research institutions and the international public.

119. The activities of the LICHR are directed towards contributing to the strengthening of security, trust and equal opportunities in the society. The main goal of the LICHR is to monitor the situation concerning the realization of the rights of residents of Estonia and to counteract the negative factors undermining the development of democratic processes.

120. The association tries to support human rights-related knowledge and culture in Estonian society and also helps to promote constructive debates on human rights problems both on local and international levels, cooperating with international and national human rights bodies and organizations. The tasks of the association include gathering and disseminating information about human rights.

121. The Institute of Human Rights was created in 1992. The Institute is a non-governmental non-profit association whose aim is to monitor the human rights situation in Estonia and throughout the world. The Institute participates in human rights activities in Estonia and internationally. The Institute prepares and publishes reports and monographs on issues concerning the situation of human rights in Estonia and elsewhere, both on its own initiative and on request.

122. Maintaining contacts with international and national organizations that promote human rights, the Institute of Human Rights applies for international expert assistance to study the human rights situation in Estonia, involves international human rights experts in promoting human rights and familiarizes the world with Estonia's problems, situation and achievements with regard to the protection of human rights.

123. Legal assistance services have been opened in Tallinn, Jõhvi and Pärnu that provide information about human rights and legal assistance. Legal assistance services operate with financial support from the Open Estonia Foundation.

124. The Institute of Human Rights cooperates closely with other organizations. A considerable amount of literature on human rights and international human rights documents

have been translated into Estonian. Reports on situations in different fields in Estonia as well as study material have been prepared in cooperation with the United Nations Development Programme. Numerous international events have been organized and a video, "Are Human Rights Violated in Estonia?", was produced.

125. On the initiative of the President of the Republic, a President's Round Table was created on 10 July 1993 which is a permanent forum consisting of representatives of ethnic minorities and stateless persons residing in Estonia as well as representatives of political parties.

126. The task of the Round Table is to discuss issues of public and social life, including national, economic and social-political issues. The Round Table also helps to solve social-economic, cultural and legal problems of foreigners and stateless persons permanently residing in Estonia as well as problems of ethnic minorities. It also seeks to assist applicants for Estonian citizenship and helps to solve issues related to the study and use of the Estonian language.

127. On 31 March 1998, the Government of the Republic created the Foundation for the Integration of Non-Estonians. The Foundation aims to initiate and support projects oriented towards integration into Estonian society and to coordinate the effective use of different resources in this area.

128. The work of the Integration Foundation is administered by a 12-member council chaired by the Population Minister of the Republic of Estonia and its members include members of the Estonian Government and parliament and representatives of the United Nations Development Programme, Estonian higher educational establishments and the Ida-Viru county government.

129. The Jaan Tõnisson Institute is a non-profit, non-governmental research and training centre, founded on 17 April 1991. The aim of the Institute is to foster democratic development and the strengthening of civil society in Estonia. The Institute arranges research programmes, training seminars, courses, workshops and information services for teachers, politicians, governmental and local authorities and members of non-governmental organizations.

130. There are four centres in the institute to implement its goals: the Civic Education Centre, the Corruption Analysis Centre, the Human Rights Centre and the Training Centre.

131. To promote democratic values in society, the Institute developed a civic and human rights education programme, developing curricula and training teachers for both Estonian- and Russian-language schools in Estonia. This programme has been active for several years and recently has concentrated its attention on multi-ethnic and multi-cultural issues in Estonia. An important part of the Institute's activities is cooperation with other organizations, both in Estonia and abroad. The Institute cooperates with the United Nations Educational, Scientific and Cultural Organization, the European Commission, the Westminster Foundation for Democracy in the United Kingdom and with different ministries of Estonia (Ministry of Education, Ministry of Foreign Affairs), the Open Estonia Foundation and the Danish Culture Institute.

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